

that has a security guard position which requires the incumbent to inspect identity cards would not have to provide a blind individual with an assistant to perform that duty; in such a case, the assistant would be performing an essential function of the job for the individual with a disability. Job restructuring may also involve allowing part-time or modified work schedules. For instance, flexible or adjusted work schedules could benefit individuals with disabilities who cannot work a standard schedule because of the need to obtain medical treatment, or individuals with mobility impairments who depend on a public transportation system that is not accessible during the hours of a standard schedule.

9. Reasonable accommodation may also include reassignment to a vacant position. In general, reassignment should be considered only when accommodation within the individual's current position would pose an undue hardship. Reassignment is not required for applicants. However, in making hiring decisions, contractors are encouraged to consider known applicants with disabilities for all available positions for which they may be qualified when the position(s) applied for is unavailable. Reassignment may not be used to limit, segregate, or otherwise discriminate against employees with disabilities by forcing reassignments to undesirable positions or to designated offices or facilities. Employers should reassign the individual to an equivalent position in terms of pay, status, etc., if the individual is qualified, and if the position is vacant within a reasonable amount of time. A reasonable amount of time should be determined in light of the totality of the circumstances.

10. The contractor may reassign an individual to a lower graded position if there are no accommodations that would enable the employee to remain in the current position and there are no vacant equivalent positions for which the individual is qualified with or without reasonable accommodation. The contractor may maintain the reassigned individual with a disability at the salary of the higher graded position, and must do so if it maintains the salary of reassigned employees who are not disabled. It should also be noted that the contractor is not required to promote an individual with a disability as an accommodation.

11. With respect to the application process, appropriate accommodations may include the following: (1) Providing information regarding job vacancies in a form accessible to those with vision or hearing impairments (*e.g.*, by making an announcement available in Braille, in large print, or on audio tape, or by responding to job inquiries via TTY); (2) providing readers, interpreters and other similar assistance during the application, testing and interview process; (3) appropriately adjusting or modifying employ-

ment-related examinations (*e.g.*, extending regular time deadlines, allowing a blind person or one with a learning disorder such as dyslexia to provide oral answers for a written test, and permitting an applicant, regardless of the nature of his or her disability to demonstrate skills through alternative techniques and utilization of adapted tools, aids and devices); and (4) ensuring an applicant with a mobility impairment full access to testing locations such that the applicant's test scores accurately reflect the applicant's skills or aptitude rather than the applicant's mobility impairment.

APPENDIX B TO PART 60-741—DEVELOPING REASONABLE ACCOMMODATION PROCEDURES

As stated in §§60-741.21(a)(6) and 60-741.44(d), the development and use of written procedures for processing requests for reasonable accommodation is a best practice. This Appendix provides guidance contractors may wish to use should they decide to adopt this best practice. As stated in the regulations, contractors are not required to use written reasonable accommodation procedures, and the failure to use such procedures will not result in a finding of violation.

1. *Designation of responsible official.* The contractor should designate an official to be responsible for the implementation of the reasonable accommodation procedures. The responsible official may be the same official who is responsible for the implementation of the contractor's affirmative action program. The responsible official should have the authority, resources, support, and access to top management that is needed to ensure the effective implementation of the reasonable accommodation procedures. The name, title/office, and contact information (telephone number and email address) of the responsible official should be included in the reasonable accommodation procedures, and should be updated when changes occur.

2. *Description of process.* The contractor's reasonable accommodation procedures should contain a description of the steps the contractor takes when processing a reasonable accommodation request, including the process by which the contractor renders a final determination on the accommodation request. If specific information must be provided to the contractor in order to obtain a reasonable accommodation, the description should identify this information. For example, the contractor's reasonable accommodation procedures may state that to obtain a reasonable accommodation, the contractor must be informed of the existence of a disability, the disability-related limitation(s) or workplace barrier(s) that needs to be accommodated, and, if known, the desired reasonable accommodation. The description

should also indicate that, if the need for accommodation is not obvious, or if additional information is needed, the contractor may initiate an interactive process with the accommodation requester.

3. *Form of requests for reasonable accommodation.* The reasonable accommodation procedures should specify that a request for reasonable accommodation may be oral or written and should explain that there are no required “magic words” that must be used by the requester to request an accommodation. The procedures should also state that requests for reasonable accommodation may be made by an applicant, employee, or by a third party, such as a relative, job coach, or friend, on his or her behalf.

4. *Submission of reasonable accommodation requests by employees.* The reasonable accommodation procedures should identify to whom an employee (or a third party acting on his or her behalf) must submit an accommodation request. At a minimum, this should include any supervisor or management official in the employee’s chain of command, and the official responsible for the implementation of the reasonable accommodation procedures.

5. *Recurring requests for a reasonable accommodation.* The reasonable accommodation procedures should provide that in instances of a recurring need for an accommodation (e.g., a hearing impaired employee’s need for a sign language interpreter for meetings) the requester will not be required to repeatedly submit or renew their request for accommodation each time the accommodation is needed. In the absence of a reasonable belief that the individual’s recurring need for the accommodation has changed, requiring the repeated submission of a request for the accommodation could be considered harassment on the basis of disability in violation of this part.

6. *Supporting medical documentation.* The reasonable accommodation procedures should explain the circumstances, if any, under which the contractor may request and review medical documentation in support of a request for reasonable accommodation. The procedures should explain that any request for medical documentation may not be open ended, and must be limited to documentation of the individual’s disability and the functional limitations for which reasonable accommodation is sought. The procedures should also explain that the submission of medical documentation is not required when the disability for which a reasonable accommodation is sought is known or readily observable and the need for accommodation is known or obvious.

7. *Written confirmation of receipt of request.* The reasonable accommodation procedures should specify that written confirmation of the receipt of a request for reasonable accommodation will be provided to the re-

quester, either by letter or email. The written confirmation should include the date the accommodation request was received, and be signed by the authorized decisionmaker or his or her designee.

8. *Timeframe for processing requests.* The reasonable accommodation procedures should state that requests for accommodation will be processed as expeditiously as possible. Oral requests for reasonable accommodation should be considered received on the date they are initially made, even if the contractor has a reasonable accommodation request form that has not been completed. Requests for reasonable accommodation must be processed within a reasonable period of time. What constitutes a reasonable period of time will depend upon the specific circumstances. However, in general, if supporting medical documentation is not needed, that timeframe should not be longer than 5 to 10 business days. If supporting medical documentation is needed, or if special equipment must be ordered, that timeframe should not exceed 30 calendar days, unless there are extenuating circumstances beyond the control of the contractor. The procedures should explain what constitutes extenuating circumstances. However, reasonable accommodations may need to be provided even more expeditiously for applicants. See the discussion of accommodation requests from applicants in section 10, below.

9. *Delay in responding to request.* If the contractor’s processing of an accommodation request will exceed established timeframes, written notice should be provided to the requester. The notice should include the reason(s) for the delay and a projected date of response. The notice should also be dated and signed by the authorized decisionmaker or his or her designee.

10. *Reasonable accommodation requests by applicants.* The reasonable accommodation procedures should include procedures to ensure that all applicants, including those using the contractor’s online or other electronic application system, are made aware of the contractor’s reasonable accommodation obligation and are invited to request any reasonable accommodation needed to participate fully in the application process. All applicants should also be provided with contact information for contractor staff able to assist the applicant, or his or her representative, in making a request for accommodation. The contractor’s procedures should provide that reasonable accommodation requests by or on behalf of an applicant are processed expeditiously, using timeframes tailored to the application process.

11. *Denial of reasonable accommodation.* The contractor’s reasonable accommodation procedures should specify that any denial or refusal to provide a requested reasonable accommodation will be provided in writing. The written denial should include the reason

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for the denial and be dated and signed by the authorized decisionmaker or his or her designee. If the contractor provides an internal appeal or reconsideration process, the written denial should inform the requester about this process.

12. *Confidentiality.* The contractor's reasonable accommodation procedures should indicate that all requests for reasonable accommodation, related documentation (such as request confirmation receipts, requests for additional information, and decisions regarding accommodation requests), and any medical or disability-related information provided to the contractor will be treated as confidential medical records and maintained in a separate medical file, in accordance with section 503 and this part.

13. *Dissemination of procedures to employees.* The contractor should disseminate its written reasonable accommodation procedures to all employees. Notice of the reasonable accommodation procedures may be provided by their inclusion in an employee handbook that is disseminated to all employees and/or by email or electronic posting on a company Web page where work-related notices are ordinarily posted. Notice of the reasonable accommodation procedures should be provided to employees who work off-site in the same manner that notice of other work-related matters is ordinarily provided to these employees.

14. *Training.* The contractor should provide annual training for its supervisors and managers regarding the implementation of the reasonable accommodation procedures. Training should also be provided whenever significant changes are made to the reasonable accommodation procedures. Training regarding the reasonable accommodation procedures may be provided in conjunction with other required equal employment opportunity or affirmative action training.

PART 60-742—PROCEDURES FOR COMPLAINTS/CHARGES OF EMPLOYMENT DISCRIMINATION BASED ON DISABILITY FILED AGAINST EMPLOYERS HOLDING GOVERNMENT CONTRACTS OR SUBCONTRACTS

Sec.

60-742.1 Purpose and application.

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AUTHORITY: 42 U.S.C. 12117(b).

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§ 60-742.1 Purpose and application.

The purpose of this part is to implement procedures for processing and resolving complaints/charges of employment discrimination filed against employers holding government contracts or subcontracts, where the complaints/charges fall within the jurisdiction of both section 503 of the Rehabilitation Act of 1973 (hereinafter "Section 503") and the Americans with Disabilities Act of 1990 (hereinafter "ADA"). The promulgation of this part is required pursuant to section 107(b) of the ADA. Nothing in this part should be deemed to affect the Department of Labor's (hereinafter "DOL") Office of Federal Contract Compliance Programs' (hereinafter "OFCCP") conduct of compliance reviews of government contractors and subcontractors under section 503. Nothing in this part is intended to create rights in any person.

§ 60-742.2 Exchange of information.

(a) EEOC and OFCCP shall share any information relating to the employment policies and practices of employers holding government contracts or subcontracts that may assist each office in carrying out its responsibilities. Such information shall include, but not necessarily be limited to, affirmative action programs, annual employment reports, complaints, charges, investigative files, and compliance review reports and files.

(b) All requests by third parties for disclosure of the information described in paragraph (a) of this section shall be coordinated with the agency which initially compiled or collected the information.

(c) Paragraph (b) of this section is not applicable to requests for data in EEOC files made by any state or local agency designated as a "FEP agency" with which EEOC has a charge resolution contract and a work-sharing agreement containing the confidentiality requirements of sections 706(b) and 709(e) of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e *et seq.*). However, such an agency shall